IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 1262 OF 2003

IN

L.C. SUIT NO. 1774 OF 1979

M/s. Liberty Oil Mills .. Plaintiffs.

Vs

The Board of Trustees of the
Port of Bombay. .. Defendants.

And

M/s. Liberty Oil Mils Ltd. .. Applicants.

Mr. K.J. Gandhi with U.J. Makhija i/by M/s.
Mulla and Mulla CB & C & Co.
for Defendants.

Ms. G. A. Gonsalves for Applicants.

CORAM : S.U.KAMDAR,

DATE : 28TH FEBRUARY, 2005.

P.C.

1. The present chamber summons is taken out by the plaintiff for amendment of the suit in terms of the schedule annexed thereto. The learned counsel appearing for the defendants

states that the claim made by the plaintiffs in terms of the amendment is hopelessly barred by law of limitation. The question of limitation being the mixed question of law and facts can be gone into at the hearing of the suit. Liberty to the defendant to file additional written statement raising inter alia the issue of limitation in respect of the amended suit claim. The chamber summons is made absolute in terms of payer clauses (a) and (b) subject to the aforesaid liberty that the issue of limitation to be tried at the hearing of the suit.